

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

FILED  
CLERK OF COURT

APR 1 2005

MASSACHUSETTS

.....  
**CORDIUS TRUST,**

Plaintiff,

v.

C.A. NO. 04-MBD-10267

**DONALD D. KUMMERFELD,**

Defendant.  
.....

**DEFENDANT'S ASSENTED-TO MOTION  
FOR SHORT ORDER OF NOTICE AND  
FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

Defendant Donald D. Kummerfeld ("Mr. Kummerfeld") requests that the Court (1) issue a short order of notice with respect to his motion for a stay of further proceedings to enforce the judgment in this action, and (2) allow him to file certain supporting documents under seal.

As addressed more fully in the accompanying motion papers, this Court has issued an Execution in connection with a Judgment of the United States District Court for the Southern District of New York that was registered with this Court last year. Mr. Kummerfeld has appealed that underlying New York Judgment. In the meantime, however, plaintiff Cordius Trust ("Cordius") has caused the Barnstable County Sheriff's office to levy on this Court's Execution and is seeking a prompt sale of Mr. Kummerfeld's real property in Brewster, Massachusetts. Mr. Kummerfeld therefore is moving for a stay of proceedings and to prevent the sale of his retirement home during the pendency of his appeal.

Given that a sale of the Brewster property appears to be imminent, Mr. Kummerfeld respectfully requests that the Court schedule a hearing at the earliest date in April that is convenient for the Court and the parties.

Additionally, Mr. Kummerfeld requests pursuant to Local Rule 7.2 that the Court impound his memorandum of law and declaration in support of his motion for a stay of proceedings. The documents in question include sensitive personal and financial information, including tax returns, copies of bank statements, and a discussion of the physical and mental health of Mr. Kummerfeld's wife. Such information may be relevant to this Court's determination of whether to stay proceedings, but they should not be a matter of public record.

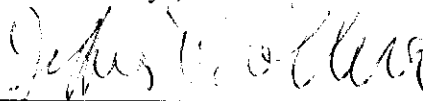
Plaintiff's counsel has assented to this motion.

WHEREFORE, the Court should schedule a hearing to take place in April in this matter at a time convenient for the Court and the parties, and should issue an Order in substantially the form attached hereto as Exhibit A hereto to impound the declaration and memorandum of Mr. Kummerfeld supporting Defendant's Rule 62 Motion for Stay of Proceedings.

Respectfully submitted,

DONALD D. KUMMERFELD,

By his attorneys,



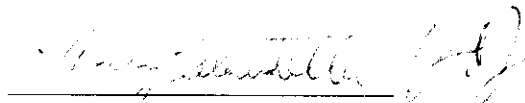
FOLEY HOAG LLP  
Jeffrey S. Follett, BBO #564337  
Michael Martin, BBO #653876  
Foley, Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210  
(617) 832-1000

Dated: March 25, 2005

Assent:

CORDIUS TRUST

By Its Attorneys,



Mary Cataudella, BBO # 553350

ROBINSON & COLE LLP

One Boston Place

Boston, MA 02108-4404

(617) 557-5900

### **CERTIFICATE OF CONFERENCE**

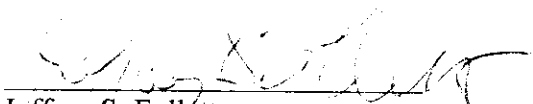
Pursuant to L.R. 7.1(2), I certify that I telephoned counsel for the Plaintiff on March 25, 2005 concerning this motion and that counsel assented to this motion.



Jeffrey S. Follett

### **CERTIFICATE OF SERVICE**

I, Jeffrey S. Follett, hereby certify that on March 25, 2005, I caused a copy of the foregoing document to be served by telecopier and first-class mail on Bradford S. Babbitt, Robinson & Cole LLP, 280 Trumbull Street, Hartford, CT 06103-3597.



Jeffrey S. Follett



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**DONALD D. KUMMERFELD,**

Defendant.  
.....

**[PROPOSED] ORDER GRANTING DEFENDANT'S ASSENTED-TO  
MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

The Court finds that there is good cause to grant Defendant's Assented-to Motion for Short Order of Notice and for Leave to File Documents under Seal. The Motion is hereby ALLOWED.

Defendant's Memorandum In Support of Rule 62 Motion for Stay of Proceedings and the Declaration of Donald D. Kummerfeld shall be kept under seal until further order of this Court.

SO ORDERED:

\_\_\_\_\_  
The Court

Dated: March \_\_, 2005